

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA IMMEDIATE

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STADIS////////////////////////////////////

E.O. 11652: N/A

TAGS: SENV, CA

SUBJECT: IJC REPORT ON FURTHER REGULATION OF THE GREAT LAKES

1. EMBASSY IS REQUESTED TO DELIVER, AS SOON AS POSSIBLE, THE TEXT GIVEN BELOW OF A DRAFT LETTER TO THE IJC TO SEAN BRADY IN EXTERNAL AFFAIRS. PLEASE POINT OUT TO BRADY THAT THIS TEXT HAS NOT YET BEEN FULLY CLEARED WITHIN THE USG BUT IS BEING FORWARDED PURSUANT TO THE AGREEMENT REACHED AT THE NEGOTIATIONS IN WASHINGTON ON SEPTEMBER 21.

2. BEGIN TEXT: DEAR MR. BULLARD: THE GOVERNMENTS OF CANADA AND THE US HAVE BEGUN CONSULTATIONS REGARDING THE COMMISSION'S REPORT ENTITLED "FURTHER REGULATION OF THE GREAT LAKES," WHICH COMPLETES THE WORK OF THE COMMISSION PURSUANT TO THE REFERENCE FROM GOVERNMENTS DATED OCTOBER 7, 1964. WE WOULD LIKE TO TAKE THIS OPPOR-
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TUNITY TO EXPRESS OUR APPRECIATION FOR THIS EXCELLENT

REPORT, WHICH WILL FORM THE BASIS OF FURTHER DELIBERATIONS WITHIN AND BETWEEN THE TWO GOVERNMENTS. WHILE ADDITIONAL PREPARATIONS WILL PRECEDE THE FORMAL RESPONSE OF THE GOVERNMENTS TO THE REPORT, AND IN PARTICULAR ITS VARIOUS DECLARATIONS AND RECOMMENDATIONS, AS A PRELIMINARY MATTER BOTH GOVERNMENTS HAVE DECIDED TO REQUEST THE

COMMISSION TO CLARIFY THE BASIS AND STATUS OF CERTAIN OF THE DECLARATIONS WHICH APPEAR AT PP 63-64 OF THE REPORT.

THESE NOVEL DECLARATIONS, SEPARATE FROM THE RECOMMENDATIONS CONTAINED IN CHAPTER XI OF THE REPORT, RAISE A NUMBER OF PROCEDURAL AND SUBSTANTIVE QUESTIONS. MOREOVER, IN PART, THE PROPOSED ACTIVITIES COULD ENTAIL ADDITIONAL EXPENSES TO BE BORNE BY THE TWO GOVERNMENTS WHICH, AS THE COMMISSION WILL APPRECIATE, MUST BE ADEQUATELY JUSTIFIED AND PROVIDED FOR IN FUTURE BUDGETING. WE WOULD APPRECIATE THE COMMISSION PROVIDING GREATER ELABORATION OF THESE PROPOSALS IN LIGHT OF THE SPECIFIC COMMENTS BELOW, AND REQUEST THAT THE COMMISSION REFRAIN FROM PROCEEDING WITH ANY OF THE PROPOSED DECLARATIONS PENDING THE FURTHER RESPONSE OF GOVERNMENTS

WITH REGARD TO THE DECLARATIONS NUMBERED ONE AND TWO, THE GOVERNMENTS REMAIN SUPPORTIVE OF THE OBJECTIVE OF CONTINUED REGULATION OF LAKE SUPERIOR CONSISTENT WITH THE 1973 SPECIAL INTERIM REPORT, GOVERNMENT RESPONSES TO WHICH WILL BE SUBSUMED IN THE FORTHCOMING REPLIES TO THE CURRENT REPORT. IN THIS REGARD, THE GOVERNMENTS BELIEVE IT WOULD ASSIST IN CLARIFYING THE PRACTICE OF THE COMMISSION IF THE COMMISSION WOULD PROVIDE FOR THE RECORD ITS VIEWS ON THE JURISDICTIONAL BASIS OF THESE DECLARATIONS IN LIGHT OF ITS 1973 SPECIAL INTERIM REPORT, THE EXISTING ORDERS OF APPROVAL GOVERNING THE ST. MARY'S RIVER CONTROL WORKS, AND THE APPLICABLE PROVISIONS OF THE BOUNDARY WATERS TREATY OF 1909. FURTHER, THE GOVERNMENTS WOULD FIND HELPFUL A FULLER INDICATION OF THE PROCEDURES CONTEMPLATED BY THE INTERNATIONAL JOINT COMMISSION IN PROCEEDING TO AN AMENDMENT OF THE EXISTING ORDERS, AND THE REGULATORY CRITERIA AND PLAN OR PLANS WHICH MAY BE CON-

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SIDERED. THE COMMISSION WILL APPRECIATE THAT THE SELECTION OF A PLAN WILL BEAR UPON NECESSARY IMPROVEMENTS TO THE CONTROL WORKS AND ATTENDANT EXPENSES.

WITH RESPECT TO DECLARATION NUMBER THREE, THE GOVERNMENTS WOULD LIKE CLARIFICATION OF CERTAIN POINTS BEFORE ASSESSING THE EFFICACY OF CREATING A NEW BOARD MECHANISM OF THE NATURE SUGGESTED BY THE COMMISSION. THE REGULATORY

PURPOSE TO BE SERVED BY THE PROPOSED BOARD IS UNCLEAR AT THIS TIME; MOREOVER, THE GENERAL RESPONSIBILITIES OF THE BOARD INDICATED IN THE REPORT APPEAR TO BE ANALOGOUS TO THOSE WHICH THE GOVERNMENTS ARE CONSIDERING IN CONNECTION WITH A NEW REFERENCE OR REFERENCES TO THE COMMISSION. IN VIEW OF THIS, THE EXPENSES WHICH MIGHT BE INCURRED BY GOVERNMENTS IN CONNECTION WITH THE BOARD PROPOSED IN

DECLARATION THREE WOULD APPEAR TO BE POTENTIALLY REDUNDANT AND UNNECESSARY. THE GOVERNMENTS THEREFORE BELIEVE THAT ORGANIZATIONAL MATTERS OF THIS NATURE SHOULD AWAIT THE DEVELOPMENT OF A FOLLOW-ON REFERENCE. IT WOULD BE HELPFUL IN DEVELOPING SUCH A REFERENCE IF THE COMMISSION WOULD EXPAND UPON THE PURPOSES FORESEEN FOR SUCH A BOARD IN THE FRAMING OF THIS DECLARATION.

BOTH GOVERNMENTS STRONGLY ENDORSE EFFORTS TO FURTHER RE-FINE LAKE ONTARIO REGULATION PLANS AS DESCRIBED IN THE FOURTH DECLARATION, AND ANTICIPATE THAT THE CANADA-QUEBEC STUDY ON THE ST. LAWRENCE RIVER THEREIN REFERRED TO WILL BE AVAILABLE ON OR ABOUT (BLANK).

FINALLY, IN CONSIDERING EXAMINATION OF FURTHER MEASURES WHICH MIGHT ALLEVIATE THE EXTREME RANGES OF STAGE EXPERIENCED ON THE GREAT LAKES, THE TWO GOVERNMENTS ARE ACUTELY CONCERNED WITH ENSURING ADEQUATE AND APPROPRIATE REPRESENTATION OF THE GREAT LAKES BASIN STATES AND PROVINCES, AS WELL AS PUBLIC PARTICIPATION IN FOLLOW-ON ACTIVITY REFERRED TO THE COMMISSION. WE ANTICIPATE MAKING SPECIFIC RECOMMENDATIONS TO THE COMMISSION IN THIS REGARD. AS A PRELIMINARY OBSERVATION, THE GOVERNMENTS BELIEVE AN EXPERIMENTAL PUBLIC ADVISORY PANEL, AS SUGGESTED IN DECLARATION NUMBER FIVE, MIGHT BE MOST SIGNIFICANT IF LIMITED OFFICIAL USE

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ATTACHED TO AN "UMBRELLA" LEVELS BOARD RATHER THAN A SPECIFIC BOARD OF CONTROL. SUCH A BROADER FRAMEWORK WOULD ENHANCE OPPORTUNITIES FOR PUBLIC INVOLVEMENT AND WOULD BE CONSISTENT WITH THE REALIZATION OF SYSTEMIC REGULATION OF THE LAKES WHICH HAS NOW BECOME AN ACCEPTED OBJECTIVE ON BOTH SIDES OF THE BOUNDARY. AS SUGGESTED IN THE COMMENTS ON DECLARATION NUMBER THREE ABOVE, IN THE VIEW OF GOVERNMENTS ORGANIZATIONAL QUESTIONS OF THIS NATURE SHOULD BEST BE DEFERRED UNTIL SUCH TIME AS GOVERNMENTS HAVE RESPONDED FULLY TO THE REPORT.

IN LIGHT OF THE INTENTION OF GOVERNMENTS TO PREPARE RESPONSES TO THE REPORT OF THE COMMISSION IN THE SHORTEST PRACTICABLE TIME, THE COMMISSION'S EARLY REPLY TO THIS LETTER IS REQUESTED.

AN IDENTICAL LETTER IS BEING SENT TO THE SECRETARY OF THE
CANADIAN SECTION OF THE COMMISSION BY THE CANADA DEPART-
MENT OF EXTERNAL AFFAIRS. END TEXT. ROBINSON

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